

ARKANSAS COURT OF APPEALS

DIVISION I

No. CA09-10

JOHNNY MILES,

APPELLANT

V.

MANPOWER TEMPORARY
SERVICES and TRANSPORTATION
INSURANCE COMPANY,

APPELLEES

Opinion Delivered 3 JUNE 2009

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION [NO. F613161]

AFFIRMED

D.P. MARSHALL JR., Judge

Johnny Miles was operating a forklift moving lumber at a Deltic Timber facility when a kiln door flew open and exposed him to hot steam. While trying to get off the forklift to escape the heat, Miles slipped and fell onto the asphalt and rails below. He then walked to the foreman's office and filed an incident report. That report describes Miles's injuries as a "small area bruised right knee, jammed left wrist, and small knot on right forearm." The next day, Miles worked eight and a half hours. He continued logging eight-to-twelve-hour days for the next eleven days until Deltic Timber terminated him. Miles later sought workers' compensation benefits for injuries to both of his knees, left hand, and back. The Administrative Law Judge and the

Commission (by a 2–1 vote) rejected his claim.

We view the facts in the light most favorable to the Commission’s decision. *Farler v. City of Cabot*, 95 Ark. App. 121, 126, 234 S.W.3d 352, 356 (2006). And we affirm if that decision displays a substantial basis for denying relief. *Ibid.* We also defer to the Commission’s determinations on credibility and weighing evidence. *Ibid.* Miles had to prove his entitlement to benefits by showing, among the other statutory factors, both medical evidence of injuries based on objective findings and a causal connection between those injuries and the forklift fall. Ark. Code Ann. § 11-9-102(4)(A)(i) & (D) (Supp. 2007); *Wal-Mart Stores, Inc. v. Van Wagner*, 337 Ark. 443, 447, 990 S.W.2d 522, 524 (1999); *Steak House v. Weigel*, 101 Ark. App. 81, 85–86, 270 S.W.3d 365, 367–68 (2007).

The Commission found that Miles failed to prove his left-hand and left-knee injuries by objective medical evidence. The record sufficiently supports this finding. Medical evidence objectively demonstrating Miles’s injuries is sparse. Ten days after the incident, a doctor noted that Miles was free of pain when he got his prescription for blood pressure medication refilled. (And a report of pain would be subjective in any event.) Miles did not seek medical treatment for his fall until the day he was terminated, which was two weeks after he fell. Miles’s medical records from that visit make no mention of left-knee troubles. The Deltic Timber incident report does not

fill the evidentiary gap here. It reflected Miles's subjective complaints and the impression of individuals without medical training of any kind rather than "medical evidence supported by objective findings." Ark. Code Ann. § 11-9-102(4)(D).

The Commission also found that Miles failed to prove a causal relationship between his right-knee and back injuries and the forklift fall. Causation is a question of fact, and here again we defer to the Commission's credibility findings. *Wal-Mart Stores*, 337 Ark. at 447, 990 S.W.2d at 524.

While Miles testified that the fall "tore all the skin off" his right knee and that it was bruised and "swollen so big" he could hardly bend it, the doctor treating him two weeks after the fall found the skin "cool and dry—no redness, bruising." The doctor also noted a scar on the knee. As the Commission pointed out, on the day of the fall Miles was offered Ibuprofen and Bio-freeze rather than bandages, which would have been appropriate for treating the type of severe lacerations that Miles now claims occurred. Presented with conflicting evidence about Miles's right knee, the Commission chose to believe the records rather than Miles's testimony. We must defer to the Commission's choice.

Miles also testified that his back injury was caused by the fall. The incident report, however, does not mention back pain. Miles testified that he told the Deltic Timber folks that his back hurt too. But a doctor described Miles as pain free ten days

after the fall, Miles worked long hours for twelve consecutive days after the incident, and no document mentions back pain until three months after the fall. The record, therefore, supports the Commission's finding that Miles failed to prove a causal link between the fall and the back injury.

Miles was hurt when he fell off the forklift. But that is not the question. Rather, the inquiry under the statute is whether this work injury required "medical services or result[ed] in disability" and was "established by medical evidence supported by objective findings." Ark. Code Ann. § 11-9-102(4)(A)(i) & (4)(D). The upshot of the Commission's decision was that the injuries Miles sustained from the forklift fall were minor and unrelated to the back, knee, and hand troubles for which he now seeks compensation. We defer to that conclusion because a reasonable person could reach it on this record.

Affirmed.

PITTMAN and HENRY, JJ., agree.